



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/927,892	08/10/2001	Robert T. Stephen	217 P 759	4789

7590 02/21/2003

Wallenstein & Wagner, Ltd.
311 S. Wacker Drive, 53rd Floor
Chicago, IL 60606-6630

EXAMINER

COCKS, JOSIAH C

ART UNIT

PAPER NUMBER

3743

DATE MAILED: 02/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/927,892

Applicant(s)

STEPHEN ET AL,

Examiner

Josiah C. Cocks

Art Unit

3743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 August 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-64 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-64 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Drawings

1. The drawings filed on 12/7/01 are accepted by the examiner.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-64 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Home* (US # 5,140,973) (cited by applicant) (hereinafter "*Home* '973") in view of *Home* (US # 5,623,866) (cited by applicant) (hereinafter "*Home* '866").

Home '973 discloses in Figures 1-4 a barbecue grill cart and frame assembly including a pre-formed upper assembly having upper leg portions (31) and a pre-formed lower assembly having lower leg portions (32) wherein the leg portions of the lower assembly include a projection (upper portion of leg 32) and the upper assembly includes a receiver such that the projection of leg (32) is received within receiver of the upper assembly (see Fig. 3). *Home* '973 also discloses a biasing and locking means in the form of pin fastener (41) that serves to maintain the projection of a lower leg (32) in contact with an inner surface of the receiver of a leg of the upper assembly by projecting through apertures (310 or 320) (see Fig. 3).

In regard to the limitation of the claims relating to a cooking chamber supported on the upper assembly, it would have been obvious to a person of ordinary skill in the art that the barbecue cart and frame assembly disclosed by *Home* '973 is intended to support a cooking chamber as a cooking chamber is necessary to the function of *Home* '973 as a barbecue grill. Such a cooking chamber is well known in the art (see item 2 of *Home* '866).

In regard to the limitations of the claim relating to reversing the location of the projections such that the upper assembly includes a projection and the lower assembly a receiver. Applicant discloses in the specification that locating the projection receiver in either of the upper and lower assembly are equivalent alternatives. Therefore, to simply reverse the projection and receiving portions of *Home* '973 is not regarded as patentably distinct over the prior art of record. Further, *Home* '866 shows a lower and upper assembly wherein the lower assembly forms a receiving portion for a projection from the upper assembly (see Fig. 5). It would have been obvious to a person of ordinary skill in the art at the time the invention was made that reversing the projection and receiving portions would serve as equivalent means for allowing the upper and lower assemblies to be joined to one another.

In regard to the limitations of the claims relating to the use of cast materials for portions of the frame assembly and cooking chamber, OFFICIAL NOTICE is taken as to the well known use of cast materials, such as cast metal, in forming barbecue grill assembly portions.

Home '973 does not disclose that the upper and lower leg portions have wall surfaces that remain in planar alignment.

Home '866 teaches a barbecue grill and frame assembly of the same field of endeavor as *Home* '973 wherein the assembly of *Home* '866 includes upper (11) and lower assemblies (3)

Art Unit: 3743

with portions that fit together such that outer wall surfaces remain in planar alignment (see Fig. 6).

Therefore, in regard to claims 1-64, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the assembly of *Home* '973 to incorporate the means for joining upper and lower assemblies such that outer walls of the assemblies remain in planar alignment as shown in *Home* '866 as this arrangement allows the lower assembly to form a support surface such that the upper assembly is supported on the lower and maintains these assemblies in contact with one another (see *Home* '866, Figs. 5 and 6).

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. EP 0 292 416, *Minshall et al.*, and *Gillespie et al.* are included to further show the state of the art concerning barbecue grill frame assemblies.


5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Josiah Cocks whose telephone number is (703) 305-0450. The examiner can normally be reached on weekdays from 7:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Bennett, can be reached at (703) 308-0101. The fax phone numbers for this Group are (703) 308-7764 for regular communications and (703) 305-3463 for After Final communications.

Art Unit: 3743

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0861.

jcc
February 19, 2003


JOSIAH COCKS
PATENT EXAMINER
ART UNIT 3743